

Daniel J. Morse (WY Bar # 7-4770)
Assistant United States Trustee, District of Wyoming
RICHARD A. WIELAND
UNITED STATES TRUSTEE
REGION 19
308 West 21st Street, Room 203
Cheyenne, WY 82001

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF WYOMING**

In re:)	
)	
T & S Restaurants,)	Case No. 13-20436
)	Chapter 11
)	
Debtor.)	
_____)	

**UNITED STATES TRUSTEE’S MOTION TO DISMISS THIS
CHAPTER 11 CASE PURSUANT TO 11 U.S.C. § 1112(b)**

The United States Trustee, through counsel, files this motion for entry of an order dismissing the above-captioned chapter 11 case pursuant to § 1112(b) of the Bankruptcy Code (the “**Motion**”), and in support thereof respectfully states and alleges as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction under 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

2. On May 8, 2013, T & S Restaurants (the “**Debtor**”) filed a voluntary petition in this Court for relief under chapter 11, Title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as amended (the “**Bankruptcy Code**”).

3. The United States Trustee has not appointed a trustee, an examiner or an unsecured creditors' committee in Debtor's case.

4. Pursuant to §§ 1107 and 1108 of the Bankruptcy Code, Debtor continues to operate its business and manage its affairs as a "debtor-in-possession."

STANDING

5. Pursuant to 28 U.S.C. § 581(a)(19), the United States Trustee is charged with administrative oversight of the bankruptcy system in this District. Such oversight is part of the United States Trustee's overarching responsibility to enforce the laws as written by Congress and interpreted by the courts. See United States Trustee v. Columbia Gas Systems, Inc. (In re Columbia Gas Systems, Inc.), 33 F.3d 294, 295-96 (3d Cir. 1994) (noting that United States Trustee has "public interest standing" under 11 U.S.C. § 307 which goes beyond mere pecuniary interest); Morgenstern v. Revco D.S., Inc. (In re Revco D.S., Inc.), 898 F.2d 498, 500 (6th Cir. 1990) (describing the United States Trustee as a "watchdog").

6. Under § 307 of the Bankruptcy Code, the United States Trustee has standing to be heard on the issues raised by this Motion.

RELIEF REQUESTED

7. By this Motion, the United States Trustee respectfully requests that this Court enter an order dismissing the above-captioned chapter 11 case pursuant to § 1112(b) of the Bankruptcy Code.

BASIS FOR RELIEF

8. Section 1112(b) of the Bankruptcy Code provides for the dismissal of bankruptcy cases for “cause,” and describes a variety of factors which may constitute “cause” for the dismissal of a chapter 11 case. See 11 U.S.C. § 1112(b). “Cause” under § 1112(b) of the Bankruptcy Code is a flexible concept. In re Pacific Rim Investments, LLP, 243 B.R. 768, 772 (D. Colo. 2000). In this case, cause exists for the dismissal of the case under § 1112(b)(4)(H) & (K) of the Bankruptcy Code because the Debtor has not filed monthly operating reports since August of 2013 and pay delinquent U.S. Trustee fees in the amount of at least \$4,875.

9. Dismissal of this case is appropriate as there appears to be no assets that can be administered for the benefit of the unsecured creditors.

CONCLUSION

WHEREFORE, the United States Trustee requests that the Court dismiss the above-captioned chapter 11 case under § 1112(b) of the Bankruptcy Code and for such other and further relief as the Court deems just and appropriate.

Dated: January 2, 2014.

Respectfully submitted,

RICHARD A. WIELAND
UNITED STATES TRUSTEE
REGION 19

/s/ Daniel Morse
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